

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION**

**STACY LLOYD FELLS, SR.**

**PLAINTIFF**

**VS.**

**CIVIL ACTION NO. 3:07cv268HTW-LRA**

**HARTFORD LIFE & ACCIDENT INSURANCE COMPANY**

**DEFENDANT**

**JUDGMENT**

THIS CAUSE, having come on for hearing on the Motion for Summary Judgment filed by the Plaintiff, and a Cross-Motion for Summary Judgment filed by the Defendant, Hartford Life and Accident Insurance Company. Having heard the argument of the parties, and by agreement of the parties to allow this Court to consider said motions on the documents, authorities and memoranda previously filed, the Court finds as follows:

1. In regard to the Motion for Summary Judgment filed by the Plaintiff, the Court cannot determine from the proof provided whether the Plaintiff was provided adequate notice in writing that his long-term disability benefits under the Defendant's policy had been terminated by the Defendant, Hartford, said termination allegedly occurring on or about June 9, 1998. Pursuant to 29 U.S.C. §1133 (1) of the Employee Retirement Income Security Act of 1974 (ERISA), Hartford was required to provide adequate written notice to Mr. Fells, when benefits were terminated. Pursuant to ERISA, the Plaintiff should have been provided a reasonable opportunity to submit written comments, documents, records and other information relating to the claim for benefits.

2. Inasmuch as the Defendant did not provide adequate notice in writing as required by ERISA, I find in favor of the Plaintiff on his Motion for Summary Judgment. As such, in light of the Defendant's apparent failure to provide such written notice, the appropriate remedy is to remand this matter to the Defendant for a redetermination of the claim as required by ERISA.

3. Plaintiff has acknowledged and stipulated during this argument that these claims do not involve any claim under state law and that the claim is governed by the rules and regulations of ERISA. Therefore, I find that any claims relating to state common law claims and punitive damages

are hereby granted to the extent set forth in Defendant's Motion for Summary Judgment. All remaining relief sought in the Defendant's Motion for Summary Judgment is hereby denied.

IT IS HEREBY ORDERED that the Plaintiff shall henceforth be allowed to, in the time limit of 180 days from the date of this Judgment, as provided by ERISA, to provide written comments, documents, records or other information relating to his claim for disability benefits. The Defendant is hereby required to make a redetermination as to the viability of this claim.

IT IS FURTHER ORDERED that this action be dismissed without prejudice, and that in the event the parties are not able to resolve these issues pursuant to a redetermination, and, if this matter is refiled, that this cause is to be reassigned to this District Judge for any further consideration as to the relief sought by the parties.

SO ORDERED, this the 29<sup>th</sup> day of August, 2008.

**s/ HENRY T. WINGATE**

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CHIEF UNITED STATES DISTRICT JUDGE

PRESENTED BY:

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